

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 10-CR-0031(1) (PJS/HB)

Plaintiff,

v.

ORDER

ARTURO PADILLA GARCIA,

Defendant.

This matter is before the Court on defendant Arturo Padilla Garcia's request to proceed on appeal without prepayment of fees. ECF No. 238. A litigant who seeks to be excused from paying the filing fee for an appeal in a federal case may apply for in forma pauperis ("IFP") status. 28 U.S.C. § 1915(a)(1); Fed. R. App. P. 24(a). To qualify for IFP status, a litigant must demonstrate that he cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1). However, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). Good faith in this context is judged by an objective standard and not by the subjective beliefs of the appellant. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). To determine whether an appeal is taken in good faith, the Court must decide whether the claims to be decided on appeal are frivolous. *Id.*

Based on the disclosures in Padilla Garcia's IFP request and other documents in the record, the Court concludes that he is financially eligible for IFP status. However,

the appeal from the Court's reduction of Padilla Garcia's sentence to 120 months' imprisonment is frivolous, and the appeal thus "is not taken in good faith." 28 U.S.C. § 1915(a)(3). For the reasons explained in the Court's written order entered on July 31, 2015, it is absolutely clear that this Court cannot reduce Padilla Garcia's sentence below the statutory mandatory minimum. ECF No. 237. Padilla Garcia's IFP application is therefore denied.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that defendant Arturo Padilla Garcia's request to proceed in forma pauperis on appeal [ECF No. 238] is DENIED.

Dated: August 18, 2015

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge